

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

UNITED STATES OF AMERICA)	
)	
V.)	CR. No.: 2:05cr290-MHT
)	
EDDIE ANDREW GORDON)	

DEFENDANT'S REQUESTED VOIR DIRE

NOW COMES the Defendant, by and through the undersigned counsel, Kevin L. Butler, and respectfully requests that the following questions be included in the voir dire directed to the jury at the trial of this matter.

Presumption of Innocence, Beyond a Reasonable Doubt:

1. The law requires that Mr. Gordon is presumed innocent and remains innocent unless the government proves his guilt beyond a reasonable doubt. Does anyone think the law should not be that way? Why do you think that?

2. Under the American criminal justice system, a defendant is innocent unless proved guilty. Some people believe that it should be the other way around and that the defendant should prove he is innocent. Which do you think is the better system? Why? How many people think the defendant should have to prove he is innocent? Why?

3. Does anyone believe that a person facing imprisonment should have to prove himself innocent?

4. In the law, there are three common burdens of proof of which you may have heard: preponderance of evidence, clear and convincing evidence, and beyond a reasonable doubt. Preponderance of evidence means more likely than not. It is the burden which a plaintiff seeking money damages in a civil action must prove. Clear and convincing evidence is greater than that --

it is the burden which the State of Alabama has to meet in order to take someone's children away. Beyond a reasonable doubt is a still greater burden. Does anyone believe that the government should be able to convict and imprison a person based upon proof where there is reasonable doubt? Why?

5. Do you have any objection with the statement of law that the indictment in this case is not evidence and should not be considered by you as evidence and it is only the procedure by which one is brought to trial and the fact that an indictment has been returned is not evidence of guilt on behalf of the defendant whatsoever?

6. Do each of you agree with the law which presumes that the defendant is innocent as he sits in this courtroom today and until such time as the government proves its case beyond a reasonable doubt?

Protection against Self-Incrimination:

7. In a criminal case, a defendant is not required to testify, and if the defendant does not testify, jurors are not supposed to draw any conclusions from that fact. Does the idea that you might not hear from the defendant disturb you? Why? Would you expect the defendant to testify? Why?

8. Do you think it would be better if the defendant was required to testify? Why?

9. Do you think you will need to hear both sides before you can make up your mind? Why? Do you understand that under the law, the defendant is not required to testify or even present his "side" and that you might be required to render a verdict of not guilty if the government did not prove its case beyond a reasonable doubt, even if the defendant did not testify, or offer evidence in his defense? Are any of you uncomfortable with that idea?

10. Do you agree with the law that the burden of proving that the defendant is guilty beyond a reasonable doubt rests with the prosecution?

11. Would you require in your own mind that the Defendant prove his innocence to you before you would acquit him?

12. Would you hold it against him if he did not testify?

13. Do you agree with the fact that the law does not require him to testify?

Jury Deliberations:

14. Do you agree that you are bound to reach a verdict solely on the evidence introduced during the trial?

15. Do you agree that you are enforcing the law just as vigorously by voting for acquittal, if there is a reasonable doubt as to guilt, as you do by voting for conviction when there is no such doubt?

16. Would you give the accused the benefit of your individual judgment in arriving at a verdict in this case?

17. If you came to the conclusion that the prosecution had not proven the guilt of the accused beyond a reasonable doubt, and you found that a majority of the jurors believed the accused was guilty, would you change your verdict in order to reach a unanimous decision?

Jurors' knowledge of witnesses or prosecutors:

18. Do you understand that the comments of the prosecutor are not evidence in this case?

19. Do any of you know anything about the facts of this case?

20. Does any member of the jury venire know any of the following people? (We ask the Court to read a list of the Government's proposed witnesses).

21. Are any of you related to anyone on the staff of the United States Attorney?

22. Does any member of the jury venire know any member of the United States Attorney's Office and its investigators? (We ask the Assistant United States Attorney to please stand

and give with clarity the name of each member of the U.S. Attorney's Office, including investigators)

Opinions about Law Enforcement:

23. Do any of you know any law enforcement officer either civil or military? If so, please state the extent of the relationship.

24. Do any of you have family ties with police or law enforcement persons? If so, please state the relationship.

25. Who, if anyone thinks that the testimony of a law enforcement agent in a criminal case is more deserving of belief than the testimony of a non-law enforcement person, simply because the person testifying is a law enforcement officer? Why do you think so? Do any of you think that the testimony of a law enforcement agent is less deserving of belief than that of non-law enforcement persons, simply because the person is in law enforcement? Why do you think so?

26. Have any of you ever or any member of your family or any of your friends ever had any contact with any employee of the Montgomery Police Department or the Montgomery County Sheriff's Department? Please tell us about that contact. If you would prefer, you may discuss the matter in private at the bench.

27. Have any of you received any training or taken any classes in Law? If your answer is yes, briefly describe the nature of that training.

28. Have you ever been a witness for the prosecution in a criminal case? Please explain.

Crime Victim Status and Opinions on Crime:

29. Have you or anyone close to you been a victim of a crime whether or not it was reported to the police?

(a) What were the circumstances?

- (b) Did you think that drugs had anything to do with the crime?
- (c) What contact did you have with the police in connection with this incident?
- (d) Was anyone arrested? charged with a crime?
- (e) Were you satisfied with the police work in connection with this incident? Why/Why not?
- (f) Were you satisfied with the work of the courts in connection with this incident? Why/why not?
- (g) How did this incident affect your feelings about crime in general?
- (h) When you were called for jury duty, did your experience as a crime victim come to mind? Please tell us what your thoughts were.
- (i) How do you think this experience might affect your service as a juror in this case?

30. Does the fact that the Mr. Gordon has a prior felony conviction tend to make you believe that the he most likely committed the crime?

31. Have you ever known anyone who had a problem with abuse of drugs? If yes, please describe their relationship to you.

Respectfully submitted,

s/ Kevin L. Butler
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CERTIFICATE OF SERVICE

I hereby certify that on July 31, 2006, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Tommie Hardwick, Esquire
Assistant United States Attorney
One Court Square, Suite 201
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Respectfully submitted,

s/ Kevin L. Butler
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